IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 20404 of 2002

Between:

M/s. SRINIVASA RICE TRADERS. RETURU.
Kokamanu Mandalam, Guntur District,
Represented by its proprie for Vutukuri Ramachandra Rao, S/o. Nageswara Rao, aged 30 years.

..... PETITIONER

AND

1 The Assistant Commissioner of Commercial Taxes (INT), Guntur Division, Kannavarithota, Nagarampalem, GUNTUR.
2 The Commercial Tax Officer, BAPATLA.
3 The Branch Manager, State Bank of India, BAPATLA.

..RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ, Order or Direction more particularly in the nature of Writ of Mandamus declaring the action of the first respondent namely the Assistant Commissioner of Commercial Taxes (INT), Guntur Division, Guntur in Case No:NIL/02-03/CTI(3) dated 04.10.2002 and provision of Section 32 of the Andhra Pradesh General Sales Tax Act, 1957 are incapable of being

exercised and applied in respect of offences that are enumerated in Section 30 of the Act and quashed the proceedings of the 1st Respondent dated 04.10.2002 in Case No: NIL/02-03/CTI(3) purported to have been issued under Section 32 of the Act for collecting the unassessed tax and compounding fees vide money receipt no: 1522319 of 04.10.2002 as illegal, arbitrary, without authority of law and without jurisdiction as also ultra vires Section 30 of the act and set aside the proceedings or alternately read down Section 32 declaring that it has no application in respect of offences contemplated under section 30 of the Act and direct the 1st Respondent to refund/adjust the amounts collected vide Money Receipt No:1522319 dated 04.10.2002 as Compounding fees and return the cheque bearing No:841372 towards the present taxes payable by the petitioner.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: SPL GP FOR TAXES

The Court made the following:

ORDER: (Per BRSR,J)

Concededly, the subject matter that arises for consideration in this writ petition is squarely covered by the judgment rendered by this Court in ***AMBICA LAMP HOUSE, RAJAHMUNDRY*** v . ***COMMERCIAL TAX OFFICER (INT)-I ENFORCEMENT, HYDERABAD***.

Following the said decision, this writ petition is also disposed of in terms of the said judgment.

However, it is made clear that the evidence or material, if any, gathered by the Commercial Tax Department during the course of investigation, can always be utilized for proceeding further in the matter in accordance with the provisions of the A.P. General Sales Tax Act and the Rules framed thereunder.

B. SUDERSHAN REDDY, J.

Date: 27/04/2005

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C.V. RAMULU, J.

GS/GRR

To

1 The Assistant Commissioner of Commercial Taxes (INT),
Guntur Division, Kannavarithota, Nagarampalem,
GUNTUR.

2 The Commercial Tax Officer, BAPATLA.

3 The Branch Manager, State Bank of India,
BAPATLA.

4 Two CCs to the Special G.P. for Taxes, High Court of A.P.,
Hyderabad (OUT)

5 Two CD Copies.